



**SPECIFICATION REVIEW GUIDANCE CHECKLIST**  
**STATE 40% GRANT PROJECTS (No SRF funding)**

Project Name \_\_\_\_\_ Project No. \_\_\_\_\_

Reviewer \_\_\_\_\_ Date \_\_\_\_\_

- \_\_\_\_\_ (A) Advertising Time - 10 CSR 20-4.023(18)(A)
- \_\_\_\_\_ (B) State Wage Determinations (state) - 10 CSR 20-4.023(18)(K)
- \_\_\_\_\_ (C) Nondiscrimination Statement -10 CSR 20-4.023(18)(D)
- \_\_\_\_\_ (D) 5% Bid Bond - 10 CSR 20-4.023(18)(E)
- \_\_\_\_\_ (E) Award of Contract - 10 CSR 20-4.023(18)(F)
- \_\_\_\_\_ (F) "or Equal" Statement - 10 CSR 20-4.023(18)(G)
- \_\_\_\_\_ (G) Definite Completion Time - 10 CSR 20-4.023(18)(H)
- \_\_\_\_\_ (H) Right of Entry - 10 CSR 20-4.023(18)(I)
- \_\_\_\_\_ (I) 100% Performance Bond + 100% Payment Bond - 10 CSR 20-4.023(18)(J)
- \_\_\_\_\_ (J) Payment Provisions - 10 CSR 20-4.023(18)(M) and (21)
- \_\_\_\_\_ (K) Late Payment Clause - 10 CSR 20-4.023(18)(M) and (21)
- \_\_\_\_\_ (L) Surety Company Clause - Title 31 U.S.C. sec. 9304-9308
- \_\_\_\_\_ (M) Sales Tax Exemption - MO State Sales Tax Law Sec. 144.062, RSMo.
- \_\_\_\_\_ (N) Storm Water Discharge Permit 10 CSR 20-6.200(1)(A) and (1)(B)(7)
- \_\_\_\_\_ (O) Missouri Products - 71.140 RSMo.
- \_\_\_\_\_ (P) Missouri Firms - Sec. 34.076 RSMo.
- \_\_\_\_\_ (Q) Optional Bid Comment
- \_\_\_\_\_ (R) Missouri Executive Order No. 98-21 (MBE/WBE)
- \_\_\_\_\_ (S) Employment of Unauthorized Aliens Prohibited – Sec. 285.530 RSMo. (language and affidavit)
- \_\_\_\_\_ (T) OSHA
- \_\_\_\_\_ (U) Review bid form for ineligible lines

\_\_\_\_\_ (V) Domestic Products Procurement Law - Sec. 34.350 – 34.359 RSMo.

\_\_\_\_\_ (W) Prevailing Wage Certification- Sec 290.290.2 RSMo.

- A. Advertising Time - Regulations 10 CSR 20-4.023(189)(A) require that projects be publicly advertised in an area newspaper and/or contractors' publication, allowing sufficient time for bids to be prepared and submitted. Projects shall be bid at least 30 days prior to bid opening.
- B. Missouri Wage Determination - Missouri Law and 10 CSR 20-4.023(18)(K), require the inclusion of state wage determinations in your specification. The Division of Labor Standards always is available to answer questions and provide assistance with a prevailing wage project. State wage determinations may be obtained by contacting the Missouri Department of Labor and Industrial Relations, Division of Labor Standards, Prevailing Wage Section, 421 East Dunklin Street, P.O. Box 449, Jefferson City, Missouri 65102. Telephone (573) 751-3403.
- C. Nondiscrimination Statement - In accordance with 10 CSR 20-4.023(18)(D), the proposal must contain a nondiscrimination statement.
- D. Bid Bond - 10 CSR 20-4.023 (18)(E) requires each bidder to furnish a bid guarantee equivalent of 5% of the bid.
- E. Award of Contract - In accordance with 10 CSR 20-4.023(18)(F), the proposal must fully explain the basis for determining the low bidder and include a statement that the contract will be awarded to the lowest responsive, responsible bidder.
- F. "Or Equal" Statement - In accordance with 10 CSR 20 4.023(18)(G), the specifications must state that when manufacturers' names are used they are used to establish a standard and the words "or equal", if not stated, are implied. Specifying only a "brand name" product restricts full and open competition. Brand names can only be used to define performance and other relevant requirements of the item, and the specification must allow the use of an "or equal" product when "brand names" are specified. Please add an "or-equal" with the following sections: IB-3, IB-5, 2D-1, 8C-1, 11C-18, 11F-2, and 11I-2.
- G. Completion Time - Regulation 10 CSR 20-4.023(18)(H) requires the bidding documents to include a provision for the maximum calendar or work days allowed for completion of the project.
- H. Right of Entry - 10 CSR 20-4.023(18)(I) State Forty Percent Grant Regulations require that right of entry to the project site, and access to records, be provided for the Missouri Department of Natural Resources, so they may have access to the work wherever it is in preparation or progress. Proper facilities must be provided for access and inspections.
- I. One Hundred Percent Performance and Payment Bonds -10 CSR 4.023(18)(J) requires the contractor to furnish a performance and payment bond each in an amount equal to 100% of the contract price as security for the faithful performance of his/her contract and for payment of all labor and materials in connection with the project as set forth in the standard form of performance/payment bond included in the contract documents.

- J. Payment Provisions -In accordance with 10 CSR 20-4.023(18)(M) and (21), prompt progress payments should be made by the Recipient to contractors. Adequate provisions for such payments should be included in the specifications in accordance with section 34.057 RSMo.
- K. Late Payment Clause - The following paragraph must be included in the specifications:
- “If the OWNER fails to make payment thirty (30) days after receipt of the CONTRACTORS application for payment, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest in accordance with section 34.057 RSMo. “*
- L. Surety Statement - In accordance with Title 31 U.S.C. Sec. 9304-9308, the following statement must be included on all bond forms.
- IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in Missouri.*
- M. Missouri Sales Tax Exemption - While not required, we would encourage the incorporation of the following sales tax exemption paragraph in lieu of the one proposed in your specifications:
- “Missouri State Statutes 144.062, effective August 28, 1994, allows for a sales tax exemption to contractors constructing, repairing or remodeling facilities or purchasing personal property and materials to be incorporated into and consumed in the construction of projects for a tax exempt entity. The tax exempt entity shall furnish a signed exemption certification authorizing such purchases for the construction, repair or remodeling project to each contractor and/or subcontractor. “*
- NOTE TO REVIEWER: 10 CSR 20-4.023(18)(L) references sales tax exemptions for wastewater projects for non-sales tax entities. The correct cite is 144.062 RSMo.**
- N. Storm Water Discharge Permit - In accordance with 10 CSR 20-6.200(1)(A) and (1)(B)(7), if the proposed project disturbs 5 contiguous surface acres or more of land and the State 40% Grant recipient's population is greater than 100,000, then a land disturbance permit to discharge storm water is required. If the State 40% Grant recipient's population is greater than 100,000 and/or the design flow of the wastewater treatment plant is greater than or equal to 1 MGD, then storm water discharges should be included in the existing NPDES permit. In the first case, the successful bidder(s) must apply for a storm water discharge permit. In the second case, the successful bidder should check with the appropriate Regional Office to ensure that storm water discharges are covered in the existing permit. For further information, contact the Missouri Department of Natural Resources, Water Protection Program, Permits Section, P.O. Box 176, Jefferson City, Missouri 65102. Telephone: (573) 751-6825.
- O. Missouri Products - In accordance with Chapter 71.140, RSMo, preference shall be given to Missouri products.
- P. Missouri Firms - Pursuant to Section 34.076 RSMo, a preference shall be given to those persons doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. In addition, in order for a nondomiciliary Missouri bidder to be successful, his bid must be that same percentage lower than a domiciliary Missouri bidder's bid, as would be required for a Missouri bidder to successfully bid in the nondomiciliary's state.

- Q. It may be advisable to include the option to deduct certain portions of the project, or bid alternates, in the event the total bid exceeds the recipient's total funds.
- R. Missouri Executive Order No. 98-21 - In accordance with Missouri Executive Order No. 98-21, all contractors shall make special efforts to assure that a Fair Share Objective of 10% be made available to minority business firms, including historically black colleges and universities, and 5% be made available to women business enterprise firms, when purchasing supplies, equipment, construction and services related to this project. These six affirmative steps should be included in the specifications for clarity. A copy of the steps is enclosed for your information.

The following document must be included in the specifications; the Minority and Women's Business Enterprise Utilization Worksheet. All bidders should submit a completed Worksheet or similar format as part of their proposals prior to award of the contract. The apparent low bidder should be required to identify the disadvantaged firms which will receive subcontracts, and for each firm, a listing of the type of enterprise and the contract amount using this Worksheet. If the established goals are not met, the bidder should also be required to submit documentation which demonstrates that the six affirmative steps were taken. The bidder would be considered unresponsive without such documentation.

### **Six Affirmative Steps**

The Recipient agrees to take all necessary affirmative steps required to assure that small and minority firms, women's business enterprises and labor surplus area firms are used when possible as sources when procuring supplies, equipment, construction and services related to the subgrant. The recipient agrees to include information about these requirements in solicitation documents. Affirmative steps shall include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. Ensuring that small and minority and women's business enterprises are solicited whenever they are potential sources;
  - c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority and women's business enterprises;
  - d. Establishing delivery schedules, where the requirements of work will permit participation by small and minority and women's business enterprises;
  - e. Using the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, and;
  - f. Requiring any prime contractor or other subgrantee, if subgrants are to be allowed, to take the affirmative steps in subparagraphs a. through e. of this section.
- S. The contract documents must contain a statement regarding compliance with section 285.50 RSMo. and an affidavit for signature regarding employment of unauthorized aliens prohibited along with the supporting enrollment documentation in a federal work authorization program.

*“Pursuant to 285.530.1, RSMo., the subrecipient assures that it, as well as its subrecipients do not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri, and shall affirm, by sworn affidavit and provision of documentation, its enrollment and participation in federal work authorization program with respect to the employees and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Further, the subrecipient assures that it, as well as its subrecipients shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.*

*In accordance with sections 285.525 to 285.550, RSMo a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 385.530, RSMo if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor’s employees are lawfully present in the United States.”*

- T. Occupational Safety and Health Administration (OSHA) Training - The contract documents must contain a statement regarding compliance with section 292.675 RSMo. Any person signing a contract to work on the construction of public works for any public body shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program. All employees are required to complete the program within sixty days of beginning work on such construction project.
- U. Review bid form for ineligible lines. Examples of lines that might not be eligible would be house or service laterals, or some engineers have put lines on the bid form that do not detail items, just broadly state future things need to “perfect” the project. These types of things are not eligible lines for grant participation. You can comment in your letter that these lines may not be eligible for participation so they know ahead of time.
- V. Domestic Products Procurement Law – In accordance with sections 34.350 - 34.359, RSMo, the bid documents shall contain the following statement: *“All manufactured goods or commodities used or supplied in the performance of any contract or subcontract awarded on this project shall be manufactured, assembled or produced in the United States, unless obtaining American-made products would increase the cost of the contract by more than ten percent (10%). In accordance with sections 34.350 through 34.359 RSMo a waiver may be requested from the owner.”* The enclosed Domestic Products Procurement Law – RSMo 34.350 – 34.359 Certification, must be included in the specifications and submitted with the bid proposal.
- W. Affidavit of Compliance with the Prevailing Wage Law – In accordance with Sec 290.290.2 RSMO, all contractors and subcontractors are required to provide public entities with the enclosed Affidavit prior to the owner making final payment for the contract.